

ASSEMBLY BILL

No. 1328

Introduced by Assembly Member Weber

February 27, 2015

An act to add Section 1127j to the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 1328, as introduced, Weber. Discovery: prosecutorial duty to disclose information.

Existing law requires the prosecuting attorney to disclose to the defendant or his or her attorney certain materials and information, including statements of all defendants and any exculpatory evidence, as specified.

This bill would authorize a court in any criminal trial or proceeding in which the court has determined that the prosecuting attorney has intentionally or knowingly failed to disclose relevant materials and information, as specified, to instruct the jury that the failure to disclose has occurred and that the jury shall consider the failure to disclose in determining whether reasonable doubt of the defendant's guilt exists.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1127j is added to the Penal Code, to read:
- 2 1127j. (a) In any criminal trial or proceeding in which the
- 3 court determines that the prosecuting attorney has intentionally or
- 4 knowingly failed to disclose relevant materials and information

1 required under law, including Section 1054.1, except subdivision
2 (a) of that section, and *Brady v. Maryland* (1963) 373 U.S. 83, the
3 court may instruct the jury that the intentional or knowing failure
4 to disclose the relevant materials and information occurred and
5 that the jury shall consider the intentional or knowing failure to
6 disclose in determining whether reasonable doubt of the
7 defendant's guilt exists.
8 (b) This section does not limit any other remedy available under
9 law.

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